

ESTTA Tracking number: **ESTTA288560**

Filing date: **06/08/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	JetBlue Airways Corporation
Granted to Date of previous extension	06/07/2009
Address	118-29 Queens Blvd. Forest Hills, NY 11375 UNITED STATES
Attorney information	Joseph F. Nicholson Kenyon & Kenyon LLP One Broadway New York, NY 10004 UNITED STATES tmdocketny@kenyon.com

### Applicant Information

Application No	77466859	Publication date	12/09/2008
Opposition Filing Date	06/08/2009	Opposition Period Ends	06/07/2009
Applicant	Fleming, David #101 1100 South Clark Drive Los Angeles, CA 90035 UNITED STATES		

### Goods/Services Affected by Opposition

Class 039. All goods and services in the class are opposed, namely: Providing information, news and commentary in the field of travel and Providing links to web sites of others featuring travel
--

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------


### Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	2905786	Application Date	06/18/2003
Registration Date	11/30/2004	Foreign Priority Date	NONE
Word Mark	JETBLUE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 1999/12/03 First Use In Commerce: 1999/12/03 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR

U.S. Registration No.	2896785	Application Date	06/18/2003
Registration Date	10/26/2004	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/01/28 First Use In Commerce: 2000/01/28 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Registration No.	2449988	Application Date	07/09/1999
Registration Date	05/08/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer		

	program		
U.S. Registration No.	2451955	Application Date	07/09/1999
Registration Date	05/15/2001	Foreign Priority Date	NONE
Word Mark	JETBLUE AIRWAYS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/02/11 First Use In Commerce: 2000/02/11 Transportation of passengers, parcels, freight and cargo by air; providing information about air transportation via a website on a global computer network; travel agency services, namely, making reservations and bookings for transportation; airline passenger services in the nature of a frequent flyer program		
U.S. Registration No.	2896784	Application Date	06/18/2003
Registration Date	10/26/2004	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2000/03/07 First Use In Commerce: 2000/03/07 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		
U.S. Registration No.	2971984	Application Date	06/18/2003
Registration Date	07/19/2005	Foreign Priority Date	NONE
Word Mark	JETBLUE		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 039. First use: First Use: 2002/02/28 First Use In Commerce: 2002/02/28 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR

U.S. Registration No.	2947348	Application Date	06/18/2003
Registration Date	05/10/2005	Foreign Priority Date	NONE
Word Mark	JETBLUE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2003/01/31 First Use In Commerce: 2003/01/31 AIR TRANSPORTATION SERVICES, NAMELY, TRANSPORTATION OF PASSENGERS, PARCELS, FREIGHT AND CARGO BY AIR		

U.S. Application No.	77375478	Application Date	01/18/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET FARES		

Design Mark	<b>JET FARES</b>
Description of Mark	NONE
Goods/Services	Class 035. First use: customer loyalty services and customer club services for commercial, promotional and/or advertising purposes; advertising services; business marketing services; retail store and online retail store services featuring convenience and novelty items for travelers and general merchandise

U.S. Application No.	77352570	Application Date	12/14/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET FARES		
Design Mark	<b>JET FARES</b>		
Description of Mark	NONE		
Goods/Services	Class 039. First use: air transportation services, namely transportation of passengers, parcels, freight and cargo by air; travel agency services in the nature of making reservations and bookings for air transportation and cruises; packaging and storage of parcels, freight and cargo for transportation; air transportation services featuring a frequent flyer award program; providing designated handling, check-in, seating and travel reservation services for air travelers; providing automated airport check-in and ticket reservation services for air travelers; providing information about air transportation and cruises via computer network; travel services, namely, making reservations and bookings for transportation, cruises and vehicle rentals; providing information about transportation, cruises and vehicle rentals and special travel offers via a global computer network; corporate travel agency services, namely, making reservations and bookings for transportation and cruises; providing travel information services featuring travel offers and vacation travel tour activities		

U.S. Application	77375405	Application Date	01/18/2008
------------------	----------	------------------	------------

No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET FAIRY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: customer loyalty services and customer club services for commercial, promotional and/or advertising purposes; advertising services; business marketing services; retail store and online retail store services featuring convenience and novelty items for travelers and general merchandise		

U.S. Application No.	77352455	Application Date	12/14/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET FAIRY		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: air transportation services, namely transportation of passengers, parcels, freight and cargo by air; travel agency services in the nature of making reservations and bookings for air transportation and cruises; packaging and storage of parcels, freight and cargo for transportation; air transportation services featuring a frequent flyer award program; providing designated handling, check-in, seating and travel reservation services for air travelers; providing automated airport check-in and ticket reservation services for air travelers; providing information about air transportation and cruises via computer network; travel services, namely, making reservations and bookings for transportation, cruises and vehicle rentals; providing information about transportation, cruises and vehicle rentals and special travel offers via a global computer network; corporate travel		


	agency services, namely, making reservations and bookings for transportation and cruises; providing travel information services featuring travel offers and vacation travel tour activities
--	---

U.S. Application No.	77375483	Application Date	01/18/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET CLASS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: customer loyalty services and customer club services for commercial, promotional and/or advertising purposes; advertising services; business marketing services; retail store and online retail store services featuring convenience and novelty items for travelers and general merchandise		

U.S. Application No.	77352568	Application Date	12/14/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JET CLASS		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: air transportation services, namely transportation of passengers, parcels, freight and cargo by air; travel agency services in the nature of making reservations and bookings for air transportation and cruises; packaging and storage of parcels, freight and cargo for transportation; air transportation services featuring a frequent flyer award program; providing designated handling, check-in, seating and travel reservation services for air travelers; providing automated airport		


	check-in and ticket reservation services for air travelers; providing information about air transportation and cruises via computer network; travel services, namely, making reservations and bookings for transportation, cruises and vehicle rentals; providing information about transportation, cruises and vehicle rentals and special travel offers via a global computer network; corporate travel agency services, namely, making reservations and bookings for transportation and cruises; providing travel information services featuring travel offers and vacation travel tour activities
--	---

U.S. Application No.	77375392	Application Date	01/18/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JETOUTOFTOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: customer loyalty services and customer club services for commercial, promotional and/or advertising purposes; advertising services; business marketing services; retail store and online retail store services featuring convenience and novelty items for travelers and general merchandise		

U.S. Application No.	77352549	Application Date	12/14/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JETOUTOFTOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 039. First use: First Use: 2008/05/06 First Use In Commerce: 2008/05/06 air transportation services, namely, transportation of passengers, parcels, freight		



	and cargo by air; travel agency services in the nature of making reservations and bookings for air transportation and cruises; packaging and storage of parcels, freight and cargo for transportation; air transportation services featuring a frequent flyer award program; providing designated handling, check-in, seating and travel reservation services for air travelers; providing automated airport check-in and ticket reservation services for air travelers; providing information about air transportation and cruises via computer network; travel services, namely, making reservations and bookings for transportation, cruises and vehicle rentals; providing information about transportation, cruises and vehicle rentals and special travel offers via a global computer network; corporate travel agency services, namely, making reservations and bookings for transportation and cruises; providing travel information services featuring travel offers and vacation travel tour activities
--	--

U.S. Application No.	77375401	Application Date	01/18/2008
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	JETOUTOFTOWN		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 043. First use: First Use: 2008/05/06 First Use In Commerce: 2008/05/06 providing travel lodging information services and travel lodging booking agency services for travelers; providing catering of foods and drinks		

Attachments	76523401#TMSN.jpeg ( 1 page )( bytes ) 76523404#TMSN.jpeg ( 1 page )( bytes ) 76523402#TMSN.jpeg ( 1 page )( bytes ) 76523403#TMSN.jpeg ( 1 page )( bytes ) 76523405#TMSN.jpeg ( 1 page )( bytes ) 77375478#TMSN.jpeg ( 1 page )( bytes ) 77352570#TMSN.jpeg ( 1 page )( bytes ) 77375405#TMSN.jpeg ( 1 page )( bytes ) 77352455#TMSN.jpeg ( 1 page )( bytes ) 77375483#TMSN.jpeg ( 1 page )( bytes ) 77352568#TMSN.jpeg ( 1 page )( bytes ) 77375392#TMSN.jpeg ( 1 page )( bytes ) 77352549#TMSN.jpeg ( 1 page )( bytes ) 77375401#TMSN.jpeg ( 1 page )( bytes ) Opposition to MR JETSETTER 77466859.pdf ( 6 pages )(30895 bytes )
-------------	---

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MEM/
Name	Matthew E Moersfelder
Date	06/08/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE  
THE TRADEMARK TRIAL AND APPEAL BOARD**

	X	
	:	
JETBLUE AIRWAYS CORPORATION,	:	
	:	
Opposer,	:	Opposition No. _____
	:	
v.	:	
	:	
DAVID FLEMING,	:	
	:	
Applicant.	:	
	:	
	X	

**NOTICE OF OPPOSITION**

JetBlue Airways Corporation (“JetBlue” or “Opposer”), through its undersigned counsel, hereby opposes trademark Application Serial No. 77/466,859, filed on May 6, 2008 (“the ’859 Application”), by David Fleming (“Applicant”) for registration of the alleged mark MR JETSETTER in International Class 39 for “Providing information, news and commentary in the field of travel and Providing links to web sites of others featuring travel” (“Applicant’s Goods and Services”).

JetBlue, a Delaware corporation with its principal place of business at 118-29 Queens Blvd., Forest Hills, New York, 11375, believes it will be damaged by registration of MR JETSETTER in International Class 39 as sought with the filing and prosecution of the ’859 Application. As explained more fully below, JetBlue opposes registration of the ’859 Application in International Class 39 on the basis that (1) use by Applicant of MR JETSETTER in connection with Applicant’s Goods and Services, as proposed, would create confusion,

mistake and deception with many marks, both registered and unregistered, owned by JetBlue for a wide variety of goods and services; and (2) use by Applicant of MR JETSETTER would dilute the distinctive quality of famous marks owned by JetBlue.

1. Opposer has been continuously engaged in providing high quality, low cost air travel under the trademark, service mark and trade name JETBLUE since at least as early as the year 2000. As a result of Opposer's extraordinary efforts, in a relatively short number of years, Opposer has grown to become one of the premier and most highly recognized and respected domestic airlines in the United States and a "major carrier", as defined by U.S. Department of Transportation standards. Opposer currently serves over fifty destinations including destinations in the United States, Puerto Rico, Mexico, The Dominican Republic, The Bahamas, Colombia, Costa Rica and Aruba. Opposer operates 600 daily flights and transports more than 21 million passengers per year.

2. As a reflection of its status as a leading domestic airline, Opposer has won numerous awards and industry accolades, not only for its superior products and services, but also for the JETBLUE brand and image itself. For example, Opposer recently has been named Best Domestic Airline (*Conde Nast Traveler*, 2005 Business Travel Awards), World's Best Low-Cost Airline (*Skytrax*, 2005 Airline of the Year Survey), Best Domestic Airline (*North American Travel Journalists Association*), Best U.S. Airline (*Airline Quality Ranking Survey*, University of Nebraska), the airline with the Best Branding (*The Association of Travel Marketing Executives*, 2005 Atlas Rewards), No. 1 in Airline Quality 2006 (*Barton School of Business and University of Nebraska at Omaha Aviation Institute*), Top Low Cost Airline for Customer Satisfaction (*J.D. Power and Associates*, 2007), #1 Airline Brand (2007 Brand Keys Customer Loyalty Engagement Index), Rated #1 Airline by Consumer Reports (*Consumer Reports*, July 2007,

“Best Large Domestic Airline” for economy-class seating (*Zagat*, 2008 Airline Survey), “Best Inflight Entertainment” for domestic flights (*Zagat*, 2008 Airline Survey), and “Most Eco-Friendly” airline (*Zagat*, 2008 Airline Survey).

3. In addition to its famous trade name, Opposer owns many well-known trademarks and service marks which comprise or include the word JETBLUE, as well as, *inter alia*, the marks associated with the following United States Registrations for JETBLUE, JETBLUE & Design and JETBLUE AIRWAYS in International Class 39 (collectively, “Opposer’s Registrations”):

Registration Number	First Use Date
2,905,786	December 3, 1999
2,896,785	January 28, 2000
2,449,988	February 11, 2000
2,451,955	February 11, 2000
2,896,784	March 7, 2000
2,971,984	February 28, 2002
2,947,348	January 31, 2003

Opposer also owns a large number of unregistered marks incorporating or comprising the word JETBLUE as used in connection with a wide variety of goods and services relative to the aircraft, aviation and air transportation industry. Opposer’s goods and services have also been offered, or are planned to be offered, in connection with a variety of “jet” marks, including JET FAIRY, JET FARES, JET CLASS, and JETOUTOFTOWN, all of which are a matter of public record.

(All of the foregoing collectively referred to herein as “Opposer’s Marks.”)

4. Opposer actively and prominently features Opposer's Marks in widespread and ongoing nationwide and regional advertising campaigns, as well as on each of its aircraft and concomitant support and promotional goods and materials, thus entitling Opposer to a wide scope of protection for Opposer's Marks. As a result of Opposer's enormous investment in advertising, marketing and promotion, and its widespread use of Opposer's Marks, as well as extensive publicity and news coverage generated by third-parties, the public and trade have come to associate Opposer's Marks with the aircraft, aviation and air transportation industry, and related goods and services, emanating exclusively from Opposer. As a result, Opposer's Marks are "famous" as defined under 15 U.S.C. § 1125(c)(1).

5. Opposer's Marks were in use long prior to any use of the alleged mark which is the subject of the '859 Application, and in fact were already famous at the time Applicant applied to register MR JETSETTER, as evidenced in part by the facts recited in Paragraph 1 and 2, above.

6. Upon information and belief, to the extent that Applicant intends to use MR JETSETTER in connection for the applied for services in Class 39, those services are closely related to the goods and services with which Opposer uses Opposer's Marks, and to market those services to the identical customers and through identical channels of trade as those of Opposer.

7. In light of the foregoing, Applicant's alleged MR JETSETTER mark so resembles Opposer's Marks as to be highly likely to create confusion, mistake or deception as to the source of Applicant's Goods and Services, in violation of 15 U.S.C. § 1052(d). If Applicant is permitted to use and register its proposed mark in Class 39, such use and registration would likely cause confusion based on the significant similarities between the respective marks and the closely related nature of the parties' respective goods and services. Accordingly, a grant of

registration of the mark in Applicant's '859 Application in Class 39 would cause irreparable damage to Opposer.

8. Moreover, Applicant's proposed mark, used in connection with Applicant's intended Goods and Services, would dilute the distinctive quality of Opposer's Marks, which are famous, and would tarnish the fine reputation of Opposer's brand and Opposer's Marks, thereby causing additional irreparable damage to Opposer.

9. Opposer reserves the right to amend its Notice of Opposition in accordance with applicable Trademark Rules of practice.

10. The statutory fee of three hundred dollars (\$300.00), and any additional required fees, should be charged to the undersigned's Deposit Account No. 11-0600.

WHEREFORE, Opposer prays that Application Serial No. 77/466,859 be rejected, and that the registration of the mark therein sought be denied and refused, and that this Opposition be sustained.

Dated: June 8, 2009  
New York, New York

Respectfully submitted,

KENYON & KENYON

By: /Matthew E. Moersfelder/  
Joseph F. Nicholson  
Matthew E. Moersfelder  
One Broadway  
New York, New York 10004-1007  
Tel. 212-425-7200  
Fax 212-425-5288  
*Attorneys for Opposer*  
*JetBlue Airways Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of JetBlue Airways Corporation's *Notice of Opposition* against U.S. Trademark Application Serial No. 77/466,859 was served by first class mail on the following counsel on this 8th day of June, 2009:

Norton R. Townsley, Esq.  
Belasco Jacobs & Townsley, LLP  
6100 Center Drive  
Suite 630  
Los Angeles, California 90045  
*Applicant's Correspondence*  
*Address of Record*

/Matthew E. Moersfelder/  
Matthew E. Moersfelder